



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 29, 1994

Mr. Hugh W. Davis
Assistant City Attorney
City of Fort Worth
1000 Throckmorton
Fort Worth, Texas 76102

OR94-848

Dear Mr. Davis:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 29902.

The City of Fort Worth (the "city") has received a request for information relating to a certain police officer. Specifically, the requestor seeks the following information about Mr. Robert Rangel:

1. Original employment application;
2. All documents, materials, reports and complaints concerning matters constituting grievances and disciplinary actions, including but not limited to suspensions, revocations, probations, reprimands or fines . . . [including] grounds for such actions.
3. Copies of all complaints regarding [Mr. Rangel];
4. Documentation reflecting all transfers and assignments regarding such employee; and
5. Documentation reflecting all law enforcement schooling and education.

You advise us that the city has made some of the requested information available to the requestor. You object, however, to release of the remainder of the requested information and claim that the city must withhold it under section 552.101 of the Government Code.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You raise section 552.101 in conjunction with section 143.089(g) of the Local Government Code. Section 143.089(g) provides:

A fire or police department may maintain a personnel file on a fire fighter or police officer employed by the department for the department's use, but the department may not release any information contained in the department file to any agency or person requesting information relating to a fire fighter or police officer. The department shall refer to the director or the director's designee a person or agency that requests information that is maintained in the fire fighter's or police officer's personnel file.

You say the submitted documents are maintained in the Fort Worth Police Department files. In *City of San Antonio v. Texas Attorney General*, 851 S.W.2d 946, 949 (Tex. App.--Austin 1993, writ denied), the court addressed a request for information contained in a police officer's personnel file maintained by a city police department for its use. The records included in the personnel file related to complaints against the police officer for which no disciplinary action was taken. The court determined that section 143.089(g) made these records confidential. *City of San Antonio*, 851 S.W.2d at 949. Therefore, records from the Fort Worth Police Department files are confidential pursuant to section 143.089(g) of the Local Government Code and must not be released pursuant to section 552.101 of the Government Code. See *id.*, Open Records Decision No. 562 (1990).

The submitted records, however, relate to incidents in which the police department took disciplinary action against the police officer. You advise us that the city was unable to locate any of the requested information in the police officer's civil service commission file. Section 143.089(a)(2) of the Local Government Code provides that the personnel file maintained by the police officers' civil service must contain any letter, memorandum, or document relating to the following:

any misconduct by the . . . police officer if the letter, memorandum, or document is from the employing department and if the misconduct resulted in disciplinary action by the employing department in accordance with this chapter.

Thus, in cases in which a police department takes disciplinary action against a police officer, the civil service file must contain all documents relating to the misconduct.

In contrast to the records maintained by the Fort Worth Police Department, the records maintained by the civil service commission may not be withheld under section 552.101 of the Government Code. Open Records Decision No. 562; Local Gov't Code § 143.089(f).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Open Government Section

KHG/GCK/rho

Ref.: ID# 29902

Enclosures: Submitted documents

cc: Mr. Mark G. Daniel
Evans, Gandy, Daniel & Moore
115 West Second Street, Suite 202
Fort Worth, Texas 76102
(w/o enclosures)